

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE:)
)
LORRI D. OTT)
Debtor. _____)
)
LORRI D. OTT)
)
Plaintiff) **ADV CASE NO.: 12-1134**
)
vs.)
)
WINGSPAN PORTFOLIO ADVISERS)
DOYLE LEGAL CORPORATION, P.C.)
HOMECOMINGS FINANCIAL)
)
Defendants)

AGREED JUDGMENT

Lorri D. Ott ("Ott"), Wingspan Portfolio Advisors ("Wingspan"), Onyx Capital, L.L.C. ("Onyx") and Doyle Legal Corporation, P.C. ("Doyle Legal"), by their respective counsel, for their Agreed Judgment as to this Adversary Proceeding, hereby stipulate and agree as follows:

1. Ott initiated this Adversary Proceeding by filing her Complaint for Relief. By her Complaint, Ott sought an injunction preventing Defendants, Wingspan, Onyx and Doyle Legal, from taking any further legal action with regard to the second mortgage on Ott's home. Ott additionally sought a judgment stating Defendants, Wingspan, Onyx and Doyle Legal, violated the Fair Debt Collection Practices Act including the statutory penalty of \$1,000.00, attorney fees, and cost of the above captioned action. Onyx was added as a party to this matter by the filing of Ott's second Amended Complaint.

2. Specifically, on March 7, 2001, Ott granted a second mortgage against the real estate commonly known as known as 1014 Irene Street, Fort Wayne, Indiana 46808 to City National Bank of West Virginia. On March 15, 2001, (hereinafter “Mortgage”), as Instrument Number 201015760 in the Office of the Recorder of Allen County, Indiana. On March 16, 2011, the Mortgage was assigned to Chase Manhattan Bank as Indenture Trustee, c/o Residential Funding Corporation. The Assignment was recorded on November 21, 2001 as Instrument Number 201084442 in the Office of the Recorder of Allen County, Indiana.

3. On March 21, 2003, Ott filed a Petition for Relief pursuant to Chapter 7 of the United States Bankruptcy Code, Case Number 03-11207. On or about July 8, 2003, an Order of Discharge was entered in favor of the Debtor, Ott.

4. On October 30, 2007, the Mortgage was then assigned to Onyx Capital, L.L.C. The Assignment was recorded on December 3, 2007 as Instrument Number 2007065919 in the Office of the Recorder of Allen County, Indiana.

5. On September 20, 2011, Wingspan Portfolio Advisors, filed to foreclose the Mortgage in the Allen County Circuit Court under Cause Number 02C01-1109-MF-96 (the “Mortgage Foreclosure Action”). On or about February 9, 2012, an Order of Dismissal without prejudice was entered with regard to the outstanding Mortgage Foreclosure Action.

6. On October 29, 2012, the Mortgage was assigned to SCD Recovery, L. L. C. The Assignment was recorded on October 31, 2012, as Instrument Number 2012062182 in the Office of the Recorder of Allen County, Indiana.

7. The Mortgage last assigned to SRP 2012-4, L.L.C. (“SRP”) by Wingspan as the Attorney-in-Fact for SCD. Wingspan has authority to act on behalf of SCD by virtue of a Limited Power of Attorney recorded on October 9, 2012, in the Office of the Recorder of Allen County, as

Instrument Number 2012057924. The Assignment has been sent for recording but has not been returned to the Office of Doyle Legal as of the date of this filing. A true and accurate copy of the Assignment is attached hereto as **Exhibit A**.

7. Without admitting any specific allegations of Ott's Complaint, in order to resolve this dispute without the cost or delay of litigation, Ott and Defendants Wingspan, Doyle Legal Corporations, P.C. and Onyx wish to resolve the issues in this Adversary Proceeding by means of an agreed judgment, pursuant to the terms set forth herein.

8. Wingspan as Attorney-In-Fact for SRP, the current holder of the Mortgage, acknowledges that SRP will release the Mortgage. The Mortgage Release has already been executed and is in the possession of Doyle Legal. Wingspan is authorized to execute documents for SRP as its Attorney-In-Fact by virtue of a recorded Limited Power of Attorney recorded on October 9, 2012 as Instrument Number 2012057925 in the Office of the Recorder of Allen County, Indiana. The Limited Power of Attorney specifically confers upon Wingspan Portfolio Advisors, LLC. the right to release mortgages as Attorney-In-Fact for SRP.

9. Further, the parties stipulate and agree that Doyle Legal will tender the sum of \$3,000.00 ("Agreed Amount") to Ott in satisfaction of the claims set forth in her adversary proceeding.

10. The parties agree that, upon release of the Mortgage and tender to the Agreed Amount, at that time Ott's Adversary Complaint will be dismissed with prejudice.

11. Ott has agreed to dismiss all claims against Homecomings Financial with prejudice; therefore, Homecomings Financial is not a party to this settlement agreement.

12. If the Mortgage is not released or the Agreed Amount is not tendered to Ott's counsel, for her benefit, she shall have the right to pursue this Adversary Proceeding and all remedies afforded to her under Federal, State, and local law.

13. The parties hereby jointly move the Court to approve this Agreed Judgment with regard to the terms set forth herein.

Stipulated and Agreed as of October 31, 2012.

AND THE COURT, being duly apprised of the foregoing, now enters judgment herein as agreed by the parties.

DATED: November 7, 2012.

/s/ Robert E. Grant
HON. ROBERT E. GRANT, Judge
United States Bankruptcy Court

/s/ Rayanna L. Alexander
Rayanna L. Alexander, Esq.
DOYLE LEGAL CORPORATION, P.C.
41 E. Washington Street, Suite 400
Indianapolis, Indiana 46204
Counsel for Wingspan Portfolio Advisors
Counsel for Onyx Capital, L.L.C
Counsel for Doyle Legal Corporation, P.C.

/s/Bruce Norman Stier
Bruce Norman Stier, Esq.
LOGAN & STIER
116 East Berry Street, Suite 610
Fort Wayne, Indiana 46802
Counsel for Lorri Ott